IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 2212 of 2007(L)

PETITIONER:

K.P. ABDUL MAJEED, `SONA'
KOTTARAM ROAD, CALICUT.

BY ADV. SRI.P.RAGHUNATH
SRI.PREMJIT NAGENDRAN

RESPONDENTS:

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1. ASST.COMMISSIONER OF INCOMETAX,
CIRCLE-1, CALICUT.

2. COMMISSIONER OF INCOMETAX,
CALICUT.

BY ADV. SRI.P.K.R.MENON,SR.COUNSEL,GOI(TAXES)
SRI.GEORGE K. GEORGE, SC FOR IT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C). NO. 2212 OF 2007

Dated this the 4th day of October, 2007

J U D G M E N T

The challenge in this writ petition is against Exts. P16, P17 and P18 assessment orders issued by the 1st respondent. The main ground urged by the learned counsel for the petitioner in this case is that in completing the assessments there has been violation of the principles of natural justice. It is complained that he was not heard, time was not granted for producing documents, copy of the documents were not given to him and that opportunity of cross-examination was also not afforded to him. It is mainly on these grounds that the learned counsel for the writ petitioner seeks to impugn the proceedings.

2. On the other hand learned counsel for the respondents would submit that they were running against time and therefore assessment had to be completed before 31.12.06. According to them, in the notice itself it was mentioned that the documents relied on by the Department were available for perusal or obtaining copies of the same. On these grounds the respondents would attempt to sustain the order.

3. Be that as it may, in this case the assessment orders are under challenge and against which the appeal lies to the CAT Appeals and

therefore the petitioner has to invoke the statutory remedy. Thus with liberty to the petitioner to pursue the statutory remedy as available under the Income Tax Act, I dispose of the writ petition on the following terms.

Petitioner shall file appeal against Exts.P16, P17 and P18 before the appellate authority within one month from today. In view of the facts of this case, it is also ordered that if appeals are filed as above, the appeals shall be heard and disposed of within three months. Until appeals are disposed of, further proceedings pursuant to Ext.P16, P17 and P18 shall remain stayed.

It is now complained by the petitioner that properties have been attached by the Department in pursuance to the impugned assessment order. In the nature of the order that I have passed, I direct that though attachment will continue further action pursuant thereto will be kept in abeyance pending decision in the appeal.

ANTONY DOMINIC, JUDGE

vps

ANTONY DOMINIC, JUDGE

OP NO.8556/01

JUDGMENT

18TH SEPTEMBER, 2007

CRL.R.P.769/00

ORDER IN CRL.M.P. NO.4143/00 IN CRL.R.P.769/00

DISMISSED

13.9.07 SD/- **K.R. UDAYABHANU, JUDGE**

/TRUE COPY/

PA TO JUDGE.